

HOUSE BILL No. 2382

By Committee on K-12 Education Budget

2-9

1 AN ACT concerning school district boards of education; establishing the
2 school district board of education member free speech and transparency
3 act; requiring school districts to publicly list current members and
4 provide the email addresses for such members; requiring certain
5 records made, maintained or kept on a member's private electronic
6 device to be subject to disclosure under the open records act;
7 authorizing members to add items to meeting agendas, question
8 conferees and request information from the school district; amending
9 K.S.A. 2022 Supp. 45-217 and repealing the existing section.

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11 *Be it enacted by the Legislature of the State of Kansas:*

12 New Section 1. (a) This section shall be known and may be cited as
13 the school district board of education member free speech and
14 transparency act.

15 (b) (1) Each school district board of education shall list the current
16 members of the board of education of such school district and an email
17 address for each such board member on the website of the school district.
18 Such list shall be updated as necessary. Each school district shall send the
19 list of current members and their email addresses to the state department of
20 education and each time a new board member takes office or when any
21 changes to such information occurs. The state department of education
22 shall maintain a public database of all current members of the boards of
23 education of all school districts and their email addresses. The state
24 department of education shall post such database on the department's
25 website.

26 (2) Any record made, maintained or kept by a member of a board of
27 education of a school district concerning the business, functions, activities,
28 programs or operations of the board of education of the school district on
29 any private email account or private electronic device shall be open
30 records available for public inspection in accordance with the open records
31 act.

32 (c) A member of a board of education of a school district shall have
33 authority to add or place new items for discussion on the meeting agenda
34 of the board prior to any meeting conducted by the board and at the
35 beginning of any meeting that has commenced.

36 (d) No member of a board of education of a school district shall act to

1 restrict, limit or prohibit any other board member from engaging with and
2 questioning any person who presents public comment or testimony during
3 any meeting held by the board of education of the school district.

4 (e) Each meeting held by a board of education of a school district
5 shall include time for a public comment portion of the meeting including
6 any meeting that is held virtually.

7 (f) If any member of a board of education of a school district requests
8 information regarding such school district, the appropriate staff of such
9 school district shall fulfill such request in a timely manner. Any such
10 request made by a member of a board of education of a school district
11 shall not be subject to disclosure under the open records act.

12 (g) Any communication received by a member of a board of
13 education of a school district intended to be a communication sent to the
14 entire board or that addresses the board as a whole shall promptly be
15 disclosed to all members of the board. Any communication clearly
16 intended to be sent to an individual board member shall not be subject to
17 disclosure unless such communication is a public record pursuant to the
18 open records act.

19 (h) Any policies adopted by a board of education of a school district
20 in contravention of this section shall be null and void.

21 Sec. 2. K.S.A. 2022 Supp. 45-217 is hereby amended to read as
22 follows: 45-217. As used in the open records act, unless the context
23 otherwise requires:

24 (a) "Automated license plate recognition system" means one or more
25 high-speed cameras combined with computer algorithms used to convert
26 images of license plates into computer readable data.

27 (b) "Business day" means any day other than a Saturday, Sunday or
28 day designated as a holiday by the congress of the United States, by the
29 legislature or governor of this state or by the respective political
30 subdivision of this state.

31 (c) "Captured license plate data" means the global positioning device
32 coordinates, date and time, photograph, license plate number and any other
33 data captured by or derived from an automated license plate recognition
34 system.

35 (d) "Clearly unwarranted invasion of personal privacy" means
36 revealing information that would be highly offensive to a reasonable
37 person, including information that may pose a risk to a person or property
38 and is not of legitimate concern to the public.

39 (e) "Criminal investigation records" means:

40 (1) Every audio or video recording made and retained by law
41 enforcement using a body camera or vehicle camera as defined by K.S.A.
42 45-254, and amendments thereto; and

43 (2) records of an investigatory agency or criminal justice agency as

1 defined by K.S.A. 22-4701, and amendments thereto, compiled in the
2 process of preventing, detecting or investigating violations of criminal law,
3 but does not include police blotter entries, court records, rosters of inmates
4 of jails or other correctional or detention facilities or records pertaining to
5 violations of any traffic law other than vehicular homicide as defined by
6 K.S.A. 21-3405, prior to its repeal, or K.S.A. 2022 Supp. 21-5406, and
7 amendments thereto.

8 (f) "Custodian" means the official custodian or any person designated
9 by the official custodian to carry out the duties of custodian of this act.

10 (g) "Cybersecurity assessment" means an investigation undertaken by
11 a person, governmental body or other entity to identify vulnerabilities in
12 cybersecurity plans.

13 (h) "Cybersecurity plan" means information about a person's
14 information systems, network security, encryption, network mapping,
15 access control, passwords, authentication practices, computer hardware or
16 software or response to cybersecurity incidents.

17 (i) "Cybersecurity vulnerability" means a deficiency within computer
18 hardware or software, or within a computer network or information
19 system, that could be exploited by unauthorized parties for use against an
20 individual computer user or a computer network or information system.

21 (j) "Official custodian" means any officer or employee of a public
22 agency who is responsible for the maintenance of public records,
23 regardless of whether such records are in the officer's or employee's actual
24 personal custody and control.

25 (k) (1) "Public agency" means the state or any political or taxing
26 subdivision of the state or any office, agency or instrumentality thereof, or
27 any other entity receiving or expending and supported in whole or in part
28 by the public funds appropriated by the state or by public funds of any
29 political or taxing subdivision of the state.

30 (2) "Public agency" does not include:

31 (A) Any entity solely by reason of payment from public funds for
32 property, goods or services of such entity; or

33 (B) any municipal judge, judge of the district court, judge of the court
34 of appeals or justice of the supreme court.

35 (l) (1) "Public record" means any recorded information, regardless of
36 form, characteristics or location, that is made, maintained or kept by or is
37 in the possession of:

38 (A) Any public agency; or

39 (B) any officer or employee of a public agency pursuant to the
40 officer's or employee's official duties and that is related to the functions,
41 activities, programs or operations of any public agency.

42 (2) "Public record" includes, but is not limited to, an agreement in
43 settlement of litigation involving the Kansas public employees retirement

1 system and the investment of moneys of the fund.

2 (3) Notwithstanding the provisions of paragraph (1), "public record"
3 does not include:

4 (A) Records that are owned by a private person or entity and are not
5 related to functions, activities, programs or operations funded by public
6 funds. As used in this subparagraph, "private person" does not include an
7 officer or employee of a public agency who is acting pursuant to the
8 officer's or employee's official duties;

9 (B) records that are made, maintained or kept by an individual who is
10 a member of the legislature or of the governing body of any political or
11 taxing subdivision of the state, *except records made, maintained or kept by*
12 *members of school district boards of education provided pursuant to*
13 *section 1, and amendments thereto*; or

14 (C) records of employers related to the employer's individually
15 identifiable contributions made on behalf of employees for workers
16 compensation, social security, unemployment insurance or retirement. The
17 provisions of this subparagraph shall not apply to records of employers of
18 lump-sum payments for contributions as described in this subparagraph
19 paid for any group, division or section of an agency.

20 (m) "Undercover agent" means an employee of a public agency
21 responsible for criminal law enforcement who is engaged in the detection
22 or investigation of violations of criminal law in a capacity where such
23 employee's identity or employment by the public agency is secret.

24 Sec. 3. K.S.A. 2022 Supp. 45-217 is hereby repealed.

25 Sec. 4. This act shall take effect and be in force from and after its
26 publication in the statute book.